

IRC 4942(g)(2) Set-Asides: The Law at a Glance

1. Internal Revenue Code

- a. Section 4942(g)(2) – If the requirements of this section are met, an amount set aside for a specific project which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution in the year of the set-aside rather than in the year in which it is actually paid.

2. Income Tax Regulations

- a. Section 53.4942(a)-3(b)(7) - Suitability Test – provides facts that organizations need to get an advance approval of a set-aside. The following facts are needed:
 - i. Nature and purposes of the project and the amount of the set-aside.
 - ii. Amount and approximate dates of any planned additions to the set-aside after its initial establishment.
 - iii. Why the project can be better accomplished by a set-aside rather than an immediate payment of funds.
 - iv. Description of the project including estimated costs, sources of any future funds expected to be used for completion of the project, and location of any physical facilities to be acquired or constructed as part of the project.
 - v. The amounts to be set aside will actually be paid within a specified period of time that ends not more than 60 months after the date of the first set-aside, or a statement showing good cause why the period for paying the amount set aside should be extended (including a showing that the proposed project could not be divided into two or more projects covering periods of no more than 60 months each) and setting forth the extension of time requirements.

3. Revenue Rulings

- a. **Revenue Ruling 75-511, 1975-2 CB 450** - A foundation, whose primary activity consisting of making renewable scholarships and fixed sum research grants, was unable to show that its grant-making program could be better accomplished by the use of set-asides than by the immediate payment of funds.

- b. **Revenue Ruling 77-7, 1977-1 CB 354** – The term “specific project” was held to include a building project to be undertaken by a public charity unrelated to the foundation making the set-aside.
- c. **Revenue Ruling 74-450, 1974-2 CB 388** - An operating foundation’s conversion of a portion of newly acquired land into an extension of an existing wildlife sanctuary and the remainder into a public park under a four year construction contract, under which payments were made mainly during the last two years, was held to constitute a specific project.

4. **Other Resources**

- a. IRM 7.27.16.6.8 - Set Asides
- b. 1984 CPE at page 282-Article P - “IRC 4942(g)(2) - Set Asides”